

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2019-185-E**

IN RE: South Carolina Energy Freedom Act)
(H.3659) Proceeding to Establish Duke)
Energy Carolinas, LLC's Standard Offer,)
Avoided Cost Methodologies, Form)
Contract Power Purchase Agreements,) **SURREBUTTAL TESTIMONY OF**
Commitment to Sell Forms, and Any) **JON DOWNEY ON BEHALF OF**
Other Terms or Conditions Necessary) **SOUTH CAROLINA SOLAR**
(Includes Small Power Producers as) **BUSINESS ALLIANCE**
Defined in 16 United States Code 796, as)
Amended) - S.C. Code Ann. Section 58-)
41-20(A))
)

I. INTRODUCTION AND PURPOSE OF TESTIMONY

Q. Please state your name and business address.

A. My name is Jon Downey, and my business address is 1519 King Street Extension, Charleston, SC 29405.

Q. Have you previously filed direct testimony in this proceeding before the South Carolina Public Service Commission?

A. Yes.

Q. What is the purpose of your surrebuttal testimony?

A. The purpose of my surrebuttal testimony is to respond to claims made by Witness Brown in his rebuttal testimony that pertain to my direct testimony in this proceeding.

Q. Please briefly summarize your surrebuttal testimony.

A. My surrebuttal testimony corrects a number of erroneous claims made by Witness Brown related to competition between QFs, Duke, and other third-party energy suppliers. I also correct mistakes by Witness Brown related to the intent of PURPA and Act 62, as well as the benefits that PURPA and Act 62 were designed to deliver to utility customers. Finally, I explain the competitive environment in which South Carolina solar developers operate.

II. RESPONSE TO WITNESSES BROWN

Q. Do you agree with Witness Brown's suggestion that your direct testimony attempts to equate competition from QFs with competition from non-QF generation that might also sell their energy and capacity to Duke?

A. No. Witness Brown's rebuttal testimony cites to page 11 of my direct testimony when making this claim, but nowhere on that page or elsewhere in my testimony do I discuss QF

1 competition with non-QF generators that might also sell their capacity and energy to Duke.
2 However, to the extent that Duke is making off-system purchases to meet customer
3 demand, the value of those purchases is considered in the calculation of avoided cost.

4 **Q. Do you agree with Witness Brown's assertion that the "PURPA avoided cost**
5 **framework is not designed to 'benefit' customers but instead to leave them financially**
6 **unaffected by the purchase of the QF power"?**

7 **A.** It appears that Witness Brown is conflating the definition of avoided cost, which includes
8 customer indifference, with the broader aims of PURPA. PURPA's principal goals include
9 controlling power generation costs and ensuring long-term economic growth by reducing
10 the nation's reliance on oil and gas.¹ Similar to Act 62, PURPA was designed to diversify
11 electric generation resources by encouraging energy production from small power
12 producers and to shift a portion of electric generation away from resources built, owned,
13 and rate-based by vertically integrated monopoly electric utilities, which often result in
14 cost overruns paid by ratepayers.²

15 **Q. Do you agree with Witness Brown that PURPA does not create a market-based**
16 **opportunity for SPPs to deliver benefits to customers?**

¹ See, e.g., Public Utility Regulatory Policies Act, Joint Explanatory Statement of the Committee of Conference at 98, Report No. 95-1750 (Oct. 10, 1978).

² See, e.g., *FERC v. Mississippi*, 456 U.S. 742, 756 (1982) (recounting PURPA's statutory directives); H.R. Rep. No. 95-1750 at 9 (1978) (Conf. Rep.) (documenting the legislative history and development of PURPA). See also, Richard Munson, *From Edison to Enron: The Business of Power and What it Means for the Future of Electricity*, 103-107 (2005) (recounting that Senator John Durkin was a proponent of competition in the electric industry and supported by manufacturers that were interested in installing their own generation as a means to "avoid the high costs of utilities' over-budget reactors").

1 A. No. Not only does Witness Brown continue to ignore the benefits that PURPA, by
2 Congressional design, delivers to customers, but he also misconstrues the ways in which
3 PURPA functions as a substitute, albeit an imperfect one, for the free market. It is also
4 important to remember that when the South Carolina General Assembly passed Act 62 in
5 an effort to promote the state's policy of encouraging renewable energy, it chose PURPA
6 as one of the primary mechanisms for bringing the benefits of solar to utility customers.

7 In a PURPA driven market like South Carolina, SPPs are competing at multiple
8 levels to successfully develop projects. Identifying and purchasing the rights to viable land
9 with access to adequate electricity infrastructure places SPPs in competition not only with
10 each other, but also with other land use alternatives like farming, timbering and
11 development. Assuming development rights are acquired for a viable site, the SPP is then
12 competing against the utility's cost of energy and capacity. That means an SPP must be
13 able to compete on price with a monopoly that enjoys a guaranteed rate of return on its
14 capital investment, which it receives from a captive rate base. The SPP is also competing
15 against the price of fuel purchased by the utility from the marketplace. Today, SPPs are
16 primarily competing against historically low natural gas prices for the value of energy.

17 Developers in South Carolina also directly compete with developers in other states
18 for a limited pool of private investment. As Duke has become more and more hostile to QF
19 solar development and other states and utilities more inviting, attracting capital has become
20 more difficult. It is important to note that this (often) outside investment in our state
21 produces tax revenues that are important to many of the counties in which we operate while
22 also serving to upgrade the grid with no cost to the ratepayer.

1 Because a monopoly has no financial incentive to purchase power from SPPs,
2 PURPA was devised as a means of ensuring an SPP could sell its power at a reasonable
3 and fair price to monopoly utilities. Ultimately, the price signal sent to the SPPs in
4 vertically integrated markets like South Carolina is set based on the utility's cost, and if
5 SPPs can't meet or beat that cost, then they can't sell their product in South Carolina.

6 Every aspect of the solar industry is competitive, as evidenced by the constant
7 innovation and price declines that have driven increasing solar deployment for over a
8 decade across this country. SPPs that can't manage cost and risk in this dynamic business
9 environment simply fail. There is no cost recovery for abandoned solar projects that
10 couldn't make the cut.

11 **Q. Does that conclude your surrebuttal testimony?**

12 **A. Yes, it does.**